

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

Saint Torrance,	)	
	)	
Plaintiff,	)	Case No. 1:08-CV-403
	)	
vs.	)	
	)	
Cincinnati Mortgage Company	)	
Inc., <u>et al.</u> ,	)	
	)	
Defendants.	)	

O R D E R

This matter is before the Court on Magistrate Judge Black's Report and Recommendation of December 16, 2008. Doc. No. 76. In his Report and Recommendation, Magistrate Judge Black recommended that Plaintiff's motion to remand (Doc. No. 45) be denied because the Defendants properly removed the case from state court on the grounds of federal question jurisdiction. Magistrate Judge Black also recommended that Plaintiff's motions for default judgment against Defendants Fifth Third Bank, Credstar, CBC Innovis, and Prosper Marketplace, Inc. (Doc. Nos. 60 & 61) be denied because the first three defendants filed responsive pleadings in the form of motions to dismiss, and the latter party filed a timely motion for an extension of time to move or otherwise plead.

Having reviewed Magistrate Judge Black's Report and Recommendation de novo pursuant to Fed. R. Civ. P. 72(b), the Court finds that it is correct. Plaintiff's claims under the

federal Fair Credit Reporting Act arise under the Court's original subject matter jurisdiction pursuant to 28 U.S.C. § 1331. Therefore, Defendants properly removed the case from state court.

Fed. R. Civ. P. 12(b) permits the filing of a motion to dismiss prior to filing an answer pleading to the complaint. 5B Wright, et al., FEDERAL PRACTICE & PROCEDURE § 1349 (2000). Pursuant to Fed. R. Civ. P. 6(b), the Court may enlarge the time period for filing a motion or other responsive pleading to the complaint. Morgan v. Gandalf, Ltd., 165 Fed. Appx. 425, 428 (6th Cir. 2006). Thus, in this case, each of the Defendants filed appropriate pleadings in order to avoid the entry of default judgment against them.

Accordingly, the Court **ADOPTS** Magistrate Judge Black's Report and Recommendation. Plaintiff's motion to remand (Doc. No. 45) is not well-taken and is **DENIED**; Plaintiff's motions for default judgment (Doc. Nos. 60 & 61) are not well-taken and are **DENIED**.

**IT IS SO ORDERED**

Date March 24, 2009

s/Sandra S. Beckwith  
Sandra S. Beckwith  
Senior United States District Judge